

A Regular Meeting of the Marilla Town Board was held June 8, 2006 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York.

Officials present were:

John R. Foss, Supervisor
Barbara Spanitz, Councilman
Fred Specht, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

- a. The resignation of David Riley from the Assessment Review Board.
- b. A thank you letter from Iroquois Intermediate School for the Town's donation to their drug awareness program.

Committee Reports

Highway Superintendent Dave Pierce reported that the Town roadsides have been mowed. He wanted to thank the Family of Robert Lemke for donating and planting 4 red maple trees at the Town Park, they really add to the beauty of the Park.

Councilman Spanitz reported that there was a \$10,000 Grant awarded to our Library. Supervisor Foss found out about the grant and told the Librarian and she applied for it. Dale Voelker's Office awarded the Library the full \$10,000 Grant. The Planning Board will meet next Thursday, June 15th at 7:00 p.m. at the Marilla Town Hall.

Councilman Gertz reported that we have received the revised Code Book from Code Publishers. If anyone is interested in viewing it, it will be in the Supervisor's Office. There is a six page recap on the revisions if anyone is interested in looking at that. As soon as the Town Board reviews it he will try to get it back up on the Web. There will be a public hearing on it before the Town Board approves it, this will take at least a month or two.

Councilman Handley reported that the first Concert at the Pavilion was tonight with the Iroquois seventh and eight grade chorus and orchestra. They cooked hot dogs and had lemonade and cookies for all the people attending. This is the third year Iroquois School has launched the Town's Summer Concert Series. The next Pavilion meeting will be Wednesday night at 7 pm.

Councilman Specht reported that there will be the bike for Ben, the Car Show and the Civil War Re-enactment all in July. He also wanted to welcome two guests; Erika and Joel from East Aurora.

Supervisor Foss reported that the County wants the Towns to start paying for the Sheriff's road patrols. The procedure would be that we pay one third the first year, two thirds the second year, and the full amount the third year. The full amount for the Town would be about \$175,000 to \$180,000. He has also recently seen a letter about the County turning back roads to the Towns. There are 20 Towns and Villages involved and they do not agree with the County's philosophy, there is a meeting next Monday night that Board Members will be attending along with our Town Attorney. Some action will be taken by this group, this simply means if this happens there will definitely be an increase in taxes.

He reported that the PACE Grant is about done and they will be applying soon. Under the item of new business we have already approved a Prosecutor for traffic violations in the Justice Court. Starting September 1st the State Police will not be prosecuting cases, the Town has decided to provide the Prosecutor starting September 1st for the first two Tuesdays of every month. He also stated that he attended the Charter

Commission Public Hearing and voiced his objections to what they are proposing; which is to have both the County Executive and a County Manager and the County Legislature. They say this is revenue neutral but if they are broke and 50 million dollars in the hole how can this be revenue neutral. He stated that he really has a problem that they are cutting back other departments in the County but why not the administration. He strongly objects to what The Charter Commission is proposing and thinks nothing will happen because the County Legislature won't be able to put anything up that would get voter approval.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Specht moved, seconded by Councilman Gertz to approve the minutes from the Public Meeting and Regular Board Meeting held on 5/11/06. Motion Carried.

New Business

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to set the public hearing date for July 13, 2006 at 7:30 p.m. for the Flag Lot Application. Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Gertz to approve the following resolution:

WHEREAS, the Marilla Fire Company, Inc. has requested that the Town of Marilla conduct a public hearing and that the Supervisor approve a \$50,000 loan to the Marilla Fire Company, Inc. from Manufacturers and Traders Trust Company for the purpose of reconstructing the Marilla Fire Hall including, but not limited to, roof replacement, insulation and gutters, which public hearing and approval are required pursuant to United States Treasury Regulations.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. That the Town Board conduct a public hearing on the above request at the Marilla Town Hall on July 13, 2006 at 7:30 p.m.
2. That the Town Clerk cause a public hearing notice to be published and posted in accordance with the public hearing notice attached hereto and made a part hereof.
3. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on June 8, 2006, the results of which were as follows:

Roll Call vote:

Councilman Spanitz – Aye
Councilman Gertz – Aye
Supervisor Foss – Aye
Motion Carried.

Councilman Specht – Aye
Councilman Handley – Aye

Motion: Councilman Gertz moved, seconded by Councilman Specht to authorize Supervisor Foss and Town Attorney Nathan Neill to attend the General Finance Officers Conference on July 13th. Motion Carried

Motion: Councilman Gertz moved, seconded by Councilman Handley to approve the following Resolution:

WHEREAS, the County of Erie, City of Buffalo, City of Lackawanna and the City of Tonawanda entered into an Agreement on December 30, 1977 with regard to sales tax revenue distribution; and

WHEREAS, at the time that the Agreement was entered into the Cities of Buffalo, Lackawanna and Tonawanda, collectively, constituted approximately 46% of the population of Erie County and in addition were the centers of commerce in the County and generated a substantial portion of the sales tax revenue and as part of the Agreement the cities surrendered their rights to enact a city sales tax; and

WHEREAS, due to demographic changes the Cities of Buffalo, Lackawanna and Tonawanda now collectively constitute only approximately 34% of the population of Erie County, are no longer the centers of commerce in the County, are no longer the main source of sales tax revenue generation and as a result of this change the surrender of their rights to enact a city sales tax is no longer as meaningful or significant as it was in 1977; and

WHEREAS, the current sales tax distribution formula results in the residents of the Cities of Buffalo, Lackawanna and Tonawanda receiving approximately \$215.85 per capita whereas the amount received per capita by the Towns in Erie County is only an average of approximately \$80 per capita with the Town of Marilla receiving \$104.71 per capita, which distribution is clearly less than their fair and equitable share of sales tax revenue; and

WHEREAS, the Agreement provides that each party to the Agreement shall have the right to terminate said Agreement by giving one years prior notice.

NOW, THEREFORE BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF NEWSTEAD AS FOLLOWS:

1. That the Town Board requests that the Erie County Legislature adopt the resolution submitted by Legislators Ranzenhofer, Mills and Weinstein to exercise its right to terminate the sales tax distribution agreement upon one years prior notice to the other parties to the Agreement and that written notice of such election be given to the City of Buffalo, City of Lackawanna and the City of Tonawanda.
2. That the Erie County Legislature negotiate a new sales tax distribution agreement that more fairly distributes sales tax revenue among the cities, towns and villages in proportion to their respective populations as set forth in the latest decennial federal census.
3. That the Town Clerk is directed to send copies of this resolution to the Erie County Legislature, the City of Buffalo, the City of Lackawanna, the City of Tonawanda and the Erie County Executive.
4. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on June 8, 2006 results of which were as follows:

Councilman Spanitz – Aye

Councilman Specht – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Supervisor Foss – Aye

Motion Carried.

Motion: Councilman Specht moved, seconded by Councilman Handley to approve the following Resolution:

WHEREAS, the Town of Marilla has supported the purchase of development rights for parcels of land susceptible to development for the purpose of preserving farmland and maintaining open spaces; and

WHEREAS, the Town of Marilla has maintained a surplus that is available for such purpose; and

WHEREAS, an approximately 80 acre parcel of land owned by Mark, Mike and Keith Foss (the "Owners") located on Three Rod Road North of Bullis Road has been identified as being qualified for the purchase of development rights under the PACE Program; and

WHEREAS, Owners have tentatively agreed to the sale of the development rights.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. The Town Board does hereby authorize the Supervisor to sign an application through the Pace Program for purchase of development rights on property owned by the Owners on Three Rod Road North of Bullis Road at a cost to the Town not to exceed \$55,000 to be paid for from surplus funds of the Town of Marilla with the actual purchase to be subject to Town Board approval at a later time.
2. This resolution shall take effect immediately.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board held on June 8, 2006, the results of which were as follows:

Councilman Spanitz – Aye
Councilman Gertz – Aye
Supervisor Foss – Aye
Motion Carried.

Councilman Specht – Aye
Councilman Handley – Aye

Motion: Councilman Gertz moved, seconded by Councilman Spanitz to authorize the Dog Control Officer Don Roesch to use his personal cell phone for his Dog Control duties and to be reimbursed \$50 monthly for said use.
Motion Carried.

Report of Town Officials

Town Engineer Marie Nowak reported that Bennington has gotten bids on their waterline project, R. P. Meyers out of Rochester was the low bidder. They were satisfied with the prices they received and will be starting construction soon. Once construction is complete they are buying 13 feet of our water tank, this will increase water pressure for residents in Town.

Building Inspector John Fronczek submitted a written report with 12 building applications received with fees totaling \$799, 8 building permits issued with a total value of \$353,605.00 (1- residential, 1- additions, 1-accessory, 8 misc.), 9 inspections were made and 4 complaints was received for the month of May 2006. A total of 162 official code enforcement activities were performed in the month of May. In regards to flood plains and wet lands, detail maps are available in the code enforcement office for any town property owner's viewing. If owners land is found to be in a flood plain or wet land, a letter from the agencies involved must be submitted to the CEO before any activity commences.

Town Attorney Nathan Neill reported that the agreement with Bennington was signed.

The Planning Board’s next meeting will be June 15th at 7:00 p.m. and the minutes have been received and posted. Planning Board member Rick Janiga reported they will be working on the Code Book revisions.

The Conservation Advisory minutes have been received and posted.

Bill Blarr from the Marilla Fire Company reported that the Firemen’s Carnival is next week and will run Thursday, Friday, and Saturday.

Town Historian Hubert Kutter wanted to thank Joyce Kaupa and John Foss for getting the \$10,000 Library Grant. These are difficult times for the Library and this will be very helpful.

Open Board Presentations

Resident Charles O’Brian commented that hanging the flag for Pavilion events is a good idea.

Supervisor Foss stated that we also now have a Community Board.

Councilman Gertz thanked everyone who came to the Memorial Day Celebration, they had a great parade and perfect weather, we had two vocalists that sang and did a really nice job. It turned out really nice and he thanked everyone that helped and the Town Board for their assistance. It was really an enjoyable day.

Supervisor Foss commented how nice the new playground area at the Town Park looks. The new plantings that the Koch’s have put in around the Town Hall and Community Center look really nice, he doesn’t think the buildings have ever looked better than they do this year. He thanked Dave and his people and all the other people involved for their hard work.

Motion: Councilman Handley moved, seconded by Councilman Specht to approve the claims as follows:

General Fund Claims, Vouchers 201-240	\$ 25,602.20
Highway Fund Claims, Vouchers 98-111	\$ 8,418.16
Special Districts	
Sanitation (SR), Vouchers 56-65	\$ 3,450.06
Special Fire Vouchers 4-5	\$ 14,220.43
Water District #2, Voucher 14	\$ 29.83
Water District #3 Vouchers	\$.00
Water District #4 Voucher	\$.00
Community Develop. PACE	\$.00
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Spantiz to adjourn the meeting at 8:00 p.m. Motion Carried.

Respectfully submitted,

_____Town Clerk

_____Councilman

_____Councilman

_____Supervisor

_____Councilman

_____Councilman